

## UNITED STATES DISTRICT COURT

2020 OCT -6 PM 12:30

for the

District of

NEBRASKA

OFFICE OF THE CLERK

Division

Case No.

8:20CV403

(to be filled in by the Clerk's Office)

Rufino Villarreal

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Omaha Police Department,  
Omaha Police Chief  
Schmaderer,  
John Doe Police Officers

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one)



Yes

☐ No

## COMPLAINT FOR A CIVIL CASE

## I. The Parties to This Complaint

## A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Rufino Villarreal

Street Address

3335 N. 103rd Plz. #15

City and County

Omaha, Douglas

State and Zip Code

NE 68134

Telephone Number

(402) 813-9253

E-mail Address

rufinoandSarah@gmail.com

## B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

Omaha Police Department  
Government Agency  
505 S. 15th Street  
Omaha; Douglas  
NE 68183  
(402) 444-5600

Defendant No. 2

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

Mr. Todd Schmaderer  
Chief of Police  
505 S. 15th Street  
Omaha; Douglas  
NE ~~68184~~ 68183  
(402) 444-5600

Defendant No. 3

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

John Doe  
Police officers  
505 S. 15th Street  
Omaha; Douglas  
NE 68183  
(402) 444-5600

Defendant No. 4

Name  
Job or Title *(if known)*  
Street Address  
City and County  
State and Zip Code  
Telephone Number  
E-mail Address *(if known)*

**II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

U.S. Constitution Admendment I, ~~XIV~~  
42 U.S. Code § 1983

**B. If the Basis for Jurisdiction Is Diversity of Citizenship****1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* \_\_\_\_\_, is a citizen of the  
State of *(name)* \_\_\_\_\_.

**b. If the plaintiff is a corporation**

The plaintiff, *(name)* \_\_\_\_\_, is incorporated  
under the laws of the State of *(name)* \_\_\_\_\_,  
and has its principal place of business in the State of *(name)* \_\_\_\_\_.

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

**2. The Defendant(s)****a. If the defendant is an individual**

The defendant, *(name)* \_\_\_\_\_, is a citizen of  
the State of *(name)* \_\_\_\_\_. Or is a citizen of  
*(foreign nation)* \_\_\_\_\_.

b. If the defendant is a corporation

The defendant, (name) \_\_\_\_\_, is incorporated under the laws of the State of (name) \_\_\_\_\_, and has its principal place of business in the State of (name) \_\_\_\_\_.

Or is incorporated under the laws of (foreign nation) \_\_\_\_\_, and has its principal place of business in (name) \_\_\_\_\_.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy \$100,000.00

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

A Government agency, Omaha Police Department and its agents violated my right to peacefully protest by shooting me numerous times with rubber bullets and tear gas without

III. Statement of Claim provocation.

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

I attended a peaceful protest exercising my rights on May 31, 2020. We were peacefully voicing our concerns of racial injustices. I heard no audible commands but noticed people backing

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Compensatory and punitive damages: \$100,000.00 due to violations of my rights and damages to my hand and body from OPD's excessive force. I am fortunate I did not lose an eye.

III (cont) <sup>(part I)</sup> up so I was retreating when I got hit by several rubber bullets and subjected to tear gas. I was videoing the scene when a rubber bullet hit my hand. ~~It~~ If my phone was not in front of my face I would have lost an eye, at a minimum, I was so alarmed by their aggressive, excessive, behavior that I was able to pick up my phone by reaction while running and getting stuck four more times in the back of my legs. I have been peacefully protesting since the 1960's and never seen such militarized excessive behavior. Everything is on my video. Due to my injuries, I went to Methodist Hospital. I was treated in the emergency room and had X-rays of my hand which wasn't broken but was the size of an orange. I still have pain and my hand is numb in areas. I am a 64 year old Hispanic male on disability. This incident has had a chilling effect on my ability to exercise my guaranteed rights

III (cont) (p<sup>t</sup> 2)

I am fearful of the police and have had counseling to help combat my fear of the police. I have everything on video, hospital bills, and pictures of my horrific injuries.

#### IV (cont)

From my point of view our police force has turned into a militarized terrorist militia. We pay them to protect our rights not violate them. I called the mayor's hotline and they told me to obey orders and you won't get hurt. It is sad when our elected officials won't protect us, more less, listen to us. I heard no orders and I tried to tell her as she hung up. All I heard were paramilitary weapons being fired and felt the rage of our police force because we are concerned that Black Lives Do Matter. Thank God for our courts for protecting us and our constitutional rights.

**V. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: October 6, 2020

Signature of Plaintiff

Printed Name of Plaintiff

  
Rufino Villarreal

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address